

work is done entirely on farms save for an incidental amount of reporting to their employer's plant. Other employees of the above employers employed away from the farm would not come within section 3(f). For example, airport employees such as mechanics, loaders, and office workers employed by a crop dusting firm would not be agriculture employees (*Wirtz v. Boyls dba Boyls Dusting and Spraying Service* 230 F. Supp. 246, aff'd per curiam 352 F. 2d 63; *Tobin v. Wenatchee Air Service*, 10 WH Cases 680, 21 CCH Lab Cas. Paragraph 67,019 (E.D. Wash.)).

“SUCH FARMING OPERATION”—OF THE
FARMER

§ 780.137 Practices must be performed in connection with farmer's own farming.

“Practices * * * performed by a farmer” must be performed as an incident to or in conjunction with “such farming operations” in order to constitute “agriculture” within the secondary meaning of the term. Practices performed by a farmer in connection with his nonfarming operations do not satisfy this requirement (see *Calaf v. Gonzalez*, 127 F. 2d 934; *Mitchell v. Budd*, 350 U.S. 473). Furthermore, practices performed by a farmer can meet the above requirement only in the event that they are performed in connection with the farming operations of the same farmer who performs the practices. Thus, the requirement is not met with respect to employees engaged in any practices performed by their employer in connection with farming operations that are not his own (see *Farmers Reservoir Co. v. McComb*, 337 U.S. 755; *Mitchell v. Hunt*, 263 F. 2d 913; *NLRB v. Olaa Sugar Co.*, 242 F. 2d 714; *Mitchell v. Huntsville Nurseries*, 267 F. 2d 286; *Bowie v. Gonzalez*, 117 F. 2d 11). The processing by a farmer of commodities of other farmers, if incident to or in conjunction with farming operations, is incidental to or in conjunction with the farming operations of the other farmers and not incidental to or in conjunction with the farming operations of the farmer doing the processing (*Mitchell v. Huntsville Nurseries*, supra; *Farmers Reservoir Co. v. McComb*, supra; *Bowie v. Gonzalez*, supra).

§ 780.138 Application of the general principles.

Some examples will serve to illustrate the above principles. Employees of a fruit grower who dry or pack fruit not grown by their employer are not within section (f). This is also true of storage operations conducted by a farmer in connection with products grown by someone other than the farmer. Employees of a grower-operator of a sugarcane mill who transport cane from fields to the mill are not within section 3(f), where such cane is grown by independent farmers on their land as well as by the mill operator (*Bowie v. Gonzalez*, 117 F. 2d 11). Employees of a tobacco grower who strip tobacco (i.e., remove the leaves from the stalk) are not agricultural employees when performing this operation on tobacco not grown by their employer. On the other hand, where a farmer rents some space in a warehouse or packinghouse located off the farm and the farmer's own employees there engage in handling or packing only his own products for market, such operations by the farmers are within section 3(f) if performed as an incident to or in conjunction with his farming operations. Such arrangements are distinguished from those where the employees are not actually employed by the farmer. The fact that a packing shed is conducted by a family partnership, packing products exclusively grown on lands owned and operated by individuals constituting the partnership, does not alter the status of the packing activity. Thus, if in a particular case an individual farmer is engaged in agriculture, a family partnership which performs the same operations would also be engaged in agriculture. (*Dofflemeyer v. NLRB*, 206 F. 2d 813.) However, an incorporated association of farmers that does not itself engage in farming operations is not engaged in agriculture though it processes at its packing shed produce grown exclusively by the farmer members of the association. (*Goldberg v. Crowley Ridge and Fruit Growers Association*, 295 F. 2d 7 (C.A. 8).)

§ 780.139 Pea vining.

Vining employees of a pea vinery located on a farm, who vine only the peas